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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND  
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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MAY 27 2003

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ATLANTA GEORGIA 30309-3400

In re Application of	:
BERNFIELD et al	:
Serial No.: 08/965,356	: Petition Decision
Filing Date: 6 November 1997	:
Attorney Docket No. CMCC 533	:

This letter is in response to the Petition filed on 3 October 2002 to require the examiner to reconsider entry of Amendment F, filed 1 May 2001. The delay in acting upon this petition is regretted.

#### BACKGROUND

The relevant portions of the file history are outlined below.

Applicants filed an Appeal Brief on 4 December 2000. In the Examiner's Answer, mailed 27 February 2001, claims 6 and 15 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitations of the base claims and any intervening claims.

On 1 May 2001, applicants filed Amendment F, which rewrote claims 6 and 15 as suggested. Applicants also filed a Reply Brief and a request for an Oral Hearing on 1 May 2001.

An advisory Action was mailed out 23 September 2002, in which the Examiner denied entry of the amendment, stating that the Amendment would require new grounds of rejection under 35 U.S.C. 112, second paragraph.

This petition was filed 3 October 2002, but unfortunately not entered into the application or into the electronic file system<sup>1</sup>.

The Board of Patent Appeals and Interferences returned the Application to the Examiner on 29 October 2002 for consideration of the Reply Brief.

The Reply Brief was noted in the communication mailed 4 April 2003. After mailing, the Application was sent to the Special Program Examiners to address the Petition.

## **DISCUSSION**

The application, file history and petition have been considered carefully. The Petition correctly points out that Applicants have amended the claims as suggested by the Examiner and argues that any assertion that this amendment raises new issues is inappropriate.

## **DECISION**

The Petition is **GRANTED** for the reasons set forth above.

The amendment filed 1 May 2001 has been entered. Claims 6 and 15, as amended, are allowable. The application will be forwarded to the Board of Patent Appeals and Interferences for consideration of the Appeal.

Should there be any questions with regard to this letter, please contact Special Program Examiner Julie Burke by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria VA 22313-1450 or by telephone at (703) 308-7553 or by facsimile transmission at (703) 305-7230.

A handwritten signature in black ink, appearing to read "John Doll" with a stylized flourish at the end.

John Doll  
TC1600 Group Director

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<sup>1</sup> Had the Petition been entered into PALM, electronic file contents, any further mailing of actions would have been blocked until Petition was considered. Applicants can access the electronic file contents via PAIR. If applicants become aware of any Petition which is not entered, or if they receive further actions prior to having a petition decided, they are invited to contact the Special Program Examiners to follow up on the Petition.